

# OPEN MEETING AGENDA ~~ITEM~~ EXCEPTION



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

## COMMISSIONERS

Mike Gleason, Chairman  
William A. Mundell  
Jeff Hatch-Miller  
Kristin K. Mayes  
Gary Pierce

Arizona Corporation Commission

DOCKETED 2008 JAN -4 P 4:44

JAN 4 2008

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
SANTA CRUZ WATER COMPANY AND PALO  
VERDE UTILITIES COMPANY TO AMEND  
DECISION NO. 68498 PURSUANT TO A.R.S.  
SECTION 40-252.

Docket No. SW-03575A-07-0305

Docket No. W-03576A-07-0305

## EXCEPTIONS

Global Water - Santa Cruz Water Company ("GW - Santa Cruz") and Global Water - Palo Verde Utilities Company ("GW - Palo Verde")(collectively "New Global Utilities") respectfully submit these Exceptions to the Recommended Opinion and Order ("ROO") in this case.

### **I. New Entities now have the CC&N.**

The ROO should be modified to reflect that Decision No. 69920 (Sept. 27, 2007) transferred the relevant CC&Ns to the New Global Utilities from similarly named LLCs. Because the CC&Ns are now held by corporations (the New Global Utilities) and not the related LLCs, the ROO should be amended to apply to the New Global Utilities. Proposed language for an amendment is attached as Exhibit A.

### **II. Technical Corrections.**

The phrase "[the county]" should be deleted from page 4, lines 9-10. The contract in question was between Sonoran and the 387 Districts. Also, one Page 5, line 12, the ROO states that the Sonoran case is set to go to trial on January 5, 2009. Subsequent to the hearing in this case, the Superior Court vacated the trial date. See Superior Court Minute Entry dated September 26, 2007 in CV 2005-002548 and CV 2006-018576, attached as Exhibit B. Proposed language to amend the ROO to reflect these changes is attached as Exhibit C.

1 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of January 2008.

2  
3 ROSHKA DEWULF & PATTEN, PLC

4  
5 By 

6 Michael W. Patten

7 Timothy J. Sabo

8 One Arizona Center

9 400 East Van Buren Street, Suite 800

10 Phoenix, Arizona 85004

11 Original + 15 copies of the foregoing  
12 filed this 4<sup>th</sup> day of January 2008, with:

13 Docket Control  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington  
Phoenix, Arizona 85007

16 Copies of the foregoing hand-delivered/mailed  
17 this 4<sup>th</sup> day of January 2008, to:

18 Chairman, Mike Gleason  
19 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

20 Commissioner William A. Mundell  
21 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

22 Commissioner Jeff Hatch-Miller  
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1 Commissioner Gary Pierce  
2 Arizona Corporation Commission  
3 1200 West Washington  
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5 Lyn A. Farmer, Esq.  
6 Chief Administrative Law Judge  
7 Hearing Division  
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16 Ernest G. Johnson, Esq.  
17 Director, Utilities Division  
18 Arizona Corporation Commission  
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By Debbie Amual

Exhibit A

(1) Page 11, line 27, INSERT new Finding of Fact No. 66 as follows: "66. In Decision No. 69920 (Sept. 27, 2007) we transferred the CC&Ns of Santa Cruz and Palo Verde to Global Water – Santa Cruz Water Company ("GW - Santa Cruz") and Global Water – Palo Verde Utilities Company ("GW - Palo Verde")(collectively, "New Global Utilities"). The New Global Utilities are Arizona corporations."

(2) Page 12, line 2 (Conclusion of Law No. 1) DELETE "Santa Cruz and Palo Verde" and INSERT "GW – Santa Cruz" and "GW – Palo Verde".

(3) Page 12, line 4 (Conclusion of Law No. 2) DELETE "Santa Cruz and Palo Verde" and INSERT "GW – Santa Cruz" and "GW – Palo Verde".

(4) Page 12, line 7 (Conclusion of Law No. 4) DELETE "Santa Cruz and Palo Verde" and INSERT "GW – Santa Cruz" and "GW – Palo Verde".

(5) Page 12, line 10 (Conclusion of Law No. 5) DELETE "Santa Cruz and Palo Verde" and INSERT "GW – Santa Cruz" and "GW – Palo Verde".

(6) Page 12, line 13 (Conclusion of Law No. 6) DELETE "Global Utilities" and insert "New Global Utilities".

(7) Page 12, line 15 (Conclusion of Law No. 7) DELETE "Global Utilities" and insert "New Global Utilities".

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1 (8) Page 12, lines 21 and 22 DELETE "Santa Cruz Water Company, LLC, and Palo Verde  
2 Utilities Company, LLC" and INSERT "Global Water – Santa Cruz Water Company and Global  
3 Water – Palo Verde Utilities Company."  
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Exhibit B

Michael K. Jeanes, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
10/01/2007 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2005-002548  
CV 2006-018576

09/26/2007

HONORABLE A. CRAIG BLAKEY II

CLERK OF THE COURT  
L. Gilbert  
Deputy

LENNAR COMMUNITIES DEVELOPMENT  
INC

LEO R BEUS

v.

SONORAN UTILITY SERVICES L L C, et al.

LAWRENCE C WRIGHT

LAT J CELMINS  
DAWN L DAUPHINE  
JAMES M JELLISON  
BEATRIZ MEJIA  
ALEXANDRA C MIJARES  
DAVID J OUMETTE  
DALE S ZEITLIN  
C BRAD WOODFORD  
STEPHEN H SCOTT

MINUTE ENTRY

11:10 a.m. This is the time set for Status Conference. Lennar Communities Development, Inc. is represented by counsel, Leo R. Beus. Sonoran Utility Services, LLC is represented by counsel *pro hac vice*, Beatriz Mejia. Ham-Mesa, LLC, Ham Maricopa, LLC, Ham Papago, LLC and M A L, LLC are represented by counsel, Dale S. Zeitlin. Amarillo Creek, LLC, Desert Cedars, LLC, Pecan Woods, LLC, Amarillo Creek South, LLC and Martindale are represented by counsel, Dawn L. Dauphine and Mark Hummels. Defendants City of Maricopa, Rick Buss and Edward Farrell are represented by counsel, C. Brad Woodford. Defendants Global Water are represented by counsel, David J. Ouimette.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2005-002548  
CV 2006-018576

09/26/2007

Court reporter, Marylynn LeMoine, is present.

Discussion is held.

IT IS ORDERED affirming the prior appointment of Stephen H. Scott as Special Master in these matters, all in accordance with the formal written Order signed by the Court on September 26, 2007 and entered (filed) by the Clerk on September 26, 2007.

IT IS FURTHER ORDERED Plaintiff Lennar Communities Development, Inc. Motion to Compel and Non-Party Currier Construction, Inc.'s Motion to Quash or Modify Subpoena Duces Tecum are forwarded to Special Master Scott for ruling.

IT IS FURTHER ORDERED:

**In CV2005-002548:**

IT IS ORDERED vacating the Trial Management Conference set for October 3, 2008 and the trial date of November 3, 2008.

IT IS FURTHER ORDERED entering the following schedule for disclosure as set forth unless the parties obtain written modifications by the Court:

- (1) Non-expert witness disclosure: **April 11, 2008.**
- (2) Fact discovery cut-off: **July 3, 2008.**
- (3) Expert witness disclosure: **July 18, 2008.**
- (4) Rebuttal expert disclosure: **September 3, 2008.**
- (5) Sur-rebuttal expert disclosure: **October 17, 2008.**
- (6) Expert discovery cut-off: **November 28, 2008.**
- (7) Dispositive Motions shall be filed by: **December 12, 2008.**

**NOTE: All discovery and/or dispositive motions/partially dispositive motions will be filed as individual and separate pleadings. Counsel shall *not* file any**

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2005-002548  
CV 2006-018576

09/26/2007

dispositive motions as cross-motions or by way of a response or reply to a dispositive motion.

**In CV2006-018576:**

IT IS ORDERED vacating the Trial Management Conference set for October 3, 2008 and the trial date of January 5, 2009.

IT IS FURTHER ORDERED entering the following schedule for disclosure as set forth unless the parties obtain written modifications by the Court:

- (1) Non-expert witness disclosure: **April 11, 2008.**
- (2) Fact discovery cut-off: **July 3, 2008.**
- (3) Expert witness disclosure: **July 18, 2008.**
- (4) Rebuttal expert disclosure: **September 3, 2008.**
- (5) Sur-rebuttal expert disclosure: **October 17, 2008.**
- (6) Expert discovery cut-off: **November 28, 2008.**
- (7) Dispositive Motions shall be filed by: **December 12, 2008.**

**NOTE:** All discovery and/or dispositive motions/partially dispositive motions will be filed as individual and separate pleadings. Counsel shall *not* file any dispositive motions as cross-motions or by way of a response or reply to a dispositive motion.

**NOTE:** Deadlines for the exchange and deliver of exhibits, the filing of motions in limine and responses thereto, the filing of a joint pretrial statement, jury instructions and voir dire and the setting of a trial management conference will be set forth at the time the trial setting minute entry is issued.

IT IS FURTHER ORDERED setting a Status Conference in CV2005-002548 and CV2006-018576 on **December 19, 2008 at 9:00 a.m. (time allotted: 15 minutes)**, in this Division.



SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2005-002548  
CV 2006-018576

09/26/2007

**HONORABLE A. CRAIG BLAKEY, II  
MARICOPA COUNTY SUPERIOR COURT  
CENTRAL COURT BUILDING  
201 W. JEFFERSON  
4TH FLOOR, COURTROOM 401  
PHOENIX, AZ 85003  
602-506-7806**

**NOTE:** Out-of-state counsel may appear telephonically at conference set for above date and time if there are no objections.

Ms. Dauphine requests that the Court set Oral Argument at this time on Defendant CHI Construction's Motion for Judgment on the Pleadings.

IT IS ORDERED denying said request and oral argument will be set once the matter has been fully briefed.

Ms. Dauphine requests that the Court rule on any applications for attorneys' fees that may be filed in relation to issues held before the Special Master.

IT IS ORDERED denying said request.

11:29 a.m. Matter concludes.

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Exhibit C

- (1) Page 4, lines 9-10 delete "[the county]".
- (2) Page 5, line 12 delete entire line (Finding of Fact No. 12) and renumber remaining findings of fact.